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January 31, 2020

VIA ELECTRONIC FILING

The Chambers of the Honorable Judge LaShann DeArcy Hall
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: *Elliott v. Donegan, et al.*; Case No. 1: 18-cv-05680-LDH-SJB

Dear Judge DeArcy Hall,

We represent Stephen Elliott (“Plaintiff”) in the above-referenced matter and submit this letter to respectfully request clarification as to the Court’s Scheduling Order docket entry, dated January 29, 2020 (“Scheduling Order”). In the Scheduling Order, pertaining to Defendant Donegan’s Motion to Dismiss the Second Amended Complaint (Docket No. 40, the “Motion to Dismiss”) the Court directs, “Oral argument on the issue of Plaintiff’s status as a limited-purpose public figure shall be held on February 7, 2020...” Respectfully, and out of an excess of caution, Plaintiff writes Your Honor simply to confirm that the oral argument scheduled for February 7 will be on all issues pertaining to Plaintiff’s alleged status as a limited-purpose public figure—e.g., if Plaintiff was a limited-purpose public figure, has Plaintiff adequately alleged actual malice?—and not only the single issue of whether Plaintiff was or was not a limited-purpose public figure. In addition, Plaintiff respectfully writes to confirm that oral argument will not be heard on issues not pertaining to Plaintiff’s status as a limited-purpose public figure, such as immunity under Section 230 of the CDA.

If Plaintiff is mistaken in either of these conclusions, Plaintiff apologizes to the Court and respectfully requests clarification. If the Court would prefer a brief phone conference with the parties, the undersigned would be happy to coordinate with all counsel at a time convenient for the Court, on Monday afternoon or another time thereafter. We thank Your Honor for the Court’s continued guidance and consideration in this matter

**Very truly yours,
NESENOFF & MILTENBERG, LLP**

By: /s/ Andrew T. Miltenberg
Andrew Miltenberg, Esq.

CC: All Counsel (Via ECF)